

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC**

In the matter of)	
)	
Amendment of Part 2 of the Commission's)	ET Docket No. 00-258
Rules to Allocate Spectrum Below 3 GHz for)	
Mobile and Fixed Services to Support the)	
Introduction of New Advanced Services,)	
including Third Generation Wireless Systems)	
)	
The Establishment of Policies and Service)	IB Docket No. 99-81
Rules for the Mobile-Satellite Service in)	
the 2 GHz Band)	
)	
Amendment of the U.S. Table of Frequency)	RM-9911
Allocations to Designate the 2500-2520/)	
2670-2690 MHz Frequency Bands for the)	
Mobile-Satellite Service)	
)	
Petition for Rule Making of the Wireless)	RM-9498
Information Networks Forum Concerning)	
the Unlicensed Personal Communications)	
Service)	
)	
Petition for Rule Making of UTStarcom, Inc.)	RM-10024
Concerning the Unlicensed Personal)	
Communications Service)	

To: The Commission, *en banc*

**COMMENTS OF AD HOC MDS ALLIANCE
IN RESPONSE TO THIRD NOTICE OF PROPOSED RULEMAKING**

AD HOC MDS ALLIANCE (Ad Hoc), by and through two of its undersigned members, respectfully submits its comments in the captioned proceedings to the Federal Communications Commission in response to the Third Notice of Proposed Rulemaking (TNPR) portion of the Third Report and Order, Third Notice of Proposed Rulemaking and Second Memorandum Opin-

ion and Order (the “Order”), FCC 03-16, adopted January 29, 2003 and released February 10, 2003. As its comments in response to the TNPR, Ad Hoc respectfully states:

Background

In the Order, in pertinent part, the Commission reallocated 30 MHz of Mobile-Satellite Service (MSS) spectrum in the 1990-2000/2020-2025 MHz and 2165-2180 MHz bands for Fixed and Mobile services. Additionally, in the TNPR portion of the Order, the Commission posed a series of questions for public comment relating to the specific uses for the reallocated and related spectrum. Specifically included in the issues raised in the TNPR is the relocation spectrum for MDS operations from the 2150-2160/62 MHz band.

As the Commission knows, Ad Hoc represents MDS Channel 1¹ and MDS Channel 2² licensees in 17 major markets³ covering a population of approximately 80 million persons throughout the United States. It has been an active participant and commenting party throughout these proceedings, encouraging the Commission to adopt policies that mitigate the harm to licensees of MDS Channel 1 and MDS Channel 2 arising from the reallocation the 2150-2162 MHz band for advanced wireless services.⁴ With Ad Hoc’s concurrence, a compromise proposal was advanced in this proceeding on July 11, 2002, jointly by BellSouth Corporation, Nucentrix

¹ 2150-2156 MHz.

² 2156-2162 MHz.

³ Atlanta, GA; Chicago, IL; Columbus, OH; Detroit, MI; Houston, TX; Indianapolis, IN; Los Angeles, CA; Milwaukee, WI; Minneapolis, MN; New York, NY; Oklahoma City, OK; Phoenix, AZ; Sacramento, CA; San Diego, CA; San Francisco, CA; St. Louis, MO; and Washington, DC. Ad Hoc thus constitutes 17 of the 27 stations licensed on a primary basis in the 2150-2162 MHz band, which the Commission acknowledges are “entitled to relocation”. TNPR at ¶72 & n. 178.

⁴ See, e.g., Comments of the Ad Hoc MDS Alliance on the Further Notice of Proposed Rule Making, ET Docket No. 00-258, *et al.*, October 22, 2001 (the “Ad Hoc Comments”); Reply Comments of the Ad Hoc MDS Alliance on the Further Notice of Proposed Rule Making, ET Docket No. 00-258, *et al.*, November 8, 2001 (the “Ad Hoc Reply Comments”). See also Comments of the Ad Hoc MDS Alliance Supporting the NTIA Report, ET Docket No. 00-258, August 8, 2002.

Broadband Networks, Inc., Sprint Corporation, WorldCom, Inc. and The Wireless Communications Association International, Inc. in their *MDS White Paper*⁵ for relocating MDS licensees from the 2150-2162 MHz band to the 1910/1990 MHz band. The TNPR acknowledges this plan as an option, but without endorsing it as the preferred option among the various alternative uses it identifies for this spectrum.

Ad Hoc has consistently pointed out to the Commission that absent a prompt decision specifying a new frequency band for MDS Channel 1 and Channel 2, it will be virtually impossible for the lessees of Ad Hoc's various licensed stations to deploy the next generation of equipment necessary to provide economical and reliable high speed internet access the public is demanding. Thus, the current uncertainty places an undue hardship on members of Ad Hoc as small businesses, causes loss of substantial manufacturing opportunities for vendors, reduces gainful employment in our society and, equally importantly, denies the public, particularly in rural areas, a critical service and a viable alternative to existing DSL, cable modem and satellite high speed internet services.

Comments on Third Notice of Proposed Rulemaking

Against the lengthy background of this proceeding, and the severe hardship and uncertainty created for Ad Hoc by the reallocation process, the lack of direction in the TNPR is extremely disappointing. The 1.9 GHz band (1910-1920 and 1990-2000 MHz) identified in the *MDS White Paper* is now available for relocating MDS Channels 1 and 2 as a result of the Third Report and Order herein. Nonetheless, the Commission did not propose in the TNPR to relocate MDS to this band, but instead merely identified that as one option along with a number of other potential uses for the spectrum.

⁵ "A Compromise Solution for Relocating MDS from 2150-2162 MHz," ET Docket No. 00-258, *et al.*, July 11, 2002.

As Ad Hoc has previously pointed out, relocating MDS to the 1.9 GHz band is most consistent with the Commission's public interest objectives in this proceeding. The 1.9 GHz band would not require a guardband to protect adjacent licensees from interference, and would affirmatively promote efficient operation by using more, lower-powered sites to foster greater coverage and penetration of buildings. The 1.9 GHz band offers inexpensive, rapid and ubiquitous relocation for MDS, unlike any other alternative. It also fosters faster and more economical service due to the extensive availability of equipment. In short, as Ad Hoc has pointed out in its previous filings, the 1.9 GHz band is the most reasonable, and perhaps the *only* comparable spectrum to the 2150 MHz band, requires the least amount of overall relocation, and provides for the fastest deployment of new, advanced wireless services utilizing next generation of high speed wireless equipment.

The Commission is in danger of studying this issue to death. What is needed instead is a prompt decision based on the ample record of this proceeding. Ad Hoc is comprised of small, independent enterprises and minority-owned businesses that can ill afford the additional delays and uncertainties that have long plagued the wireless industry in its quest for financial viability. Further technical proceedings also are unnecessary, since the *MDS White Paper* already incorporates reduced power levels to avoid interference to adjacent PCS bands, as well as an agreement to abide by other existing technical rules governing the adjacent PCS licensees.

More specifically, Ad Hoc submits the following in response to the issues raised in the TNPR and summarized on page 3 of the Order:

1. The only reasonable alternative for the Commission is to pair 1910 MHz with 1990 MHz and designate them as the replacement spectrum for MDS Channels 1 and 2.

2. The remainder of the 1910-1920 MHz band should be retained for Unlicensed Personal Communications Services (UPCS) and should be afforded such additional flexibility as the Commission deems appropriate. Such use for the remainder of 1910-1920 MHz band can coexist with relocated MDS stations, just as the relocated MDS stations in the 1.9 GHz band can coexist with adjacent PCS stations without a guardband.

3. The MSS uplink band at 2020-2025 MHz should be used as replacement spectrum for the displaced UPCS band at 1.9 GHz.

4. The 10 MHz block that is upper adjacent to the existing 45 MHz of AWS at 2110-2155 MHz should be made available for new services, particularly AWS.

5. The best use of the 2165-2180 MHz band would be to retain it for future AWS services.

6. MDS should be relocated to the 1.9 GHz band. The alternative of 2165-2180 MHz would require substantial, spectrally inefficient guardbands and would be incongruous with the worldwide plan for this spectrum. Relocation of MDS to 1.9 GHz requires no substantive rule changes since the licensees have already agreed to operate under existing PCS rules and power levels. Such relocation also is the fastest way to clear the 2150-2162 MHz band in one national clearing, thereby expediting the auctioning of spectrum for AWS and facilitating more rapid introduction of the advanced new services to the public.

Accordingly, Ad Hoc MDS Alliance respectfully requests that the Commission promptly issue its decision designating the 1.9 GHz band for relocation of MDS licensees from 2150-2162 MHz, and adopting the rules and policies necessary and appropriate for effectuating the transition.

Respectfully submitted,

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